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OFFICE OF PETITIONS

In re Application of :
Arnold, et al. :
Application No. 10/047,213 :
Filed: January 14, 2002 :
Attorney Docket No. PALM-3785 :
For: HAND-HELD BROWSER :
TRANSCODING :

This is a decision on the petition under 37 CFR 1.181, filed November 9, 2004 and re-submitted on August 14, 2008, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicants' alleged failure to reply within three months of the mailing date of the December 5, 2003 non-final Office action. The Office contended that this application became abandoned on March 6, 2004. A Notice of Abandonment was mailed on October 29, 2004.

Petitioners assert that a reply was timely filed on certificate of mailing date February 25, 2004 and received in the Office on March 1, 2004. In support of this assertion, petitioners have provided a copy of applicants' response that contains a proper certificate of mailing bearing a February 25, 2004 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "AMENDMENT TRANSMITTAL" bears a proper certificate of mailing, dated February 25, 2004, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, petitioners have submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing March 1, 2004 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 30 page amendment. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on March 1, 2004. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the October 29, 2004 Notice of Abandonment is vacated.

The \$130.00 petition fee filed with the November 9, 2004 petition will be refunded to deposit account no. 23-0085.

After the mailing of this decision, the application file will be returned to Technology Center G.A.U. 2629 for consideration of the amendment filed on March 1, 2004 (certificate of mailing date February 25, 2004) and resubmitted with the present petitions.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
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Office of Petitions